



Home School Legal Defense Association

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November 19, 2024

Via Certified Mail and Electronic Mail

Superintendent
Central PA School District

Re: Medical and Student Data Privacy Breach for Home Education Students in Your District

Dear Superintendent:

By way of introduction, the Home School Legal Defense Association (“HSLDA”) was founded in 1983 to defend, advance, and promote homeschooling. As a public interest advocacy organization, HSLDA works to encourage local agencies and school districts to align their activities with the requirements of state homeschool laws, as well as federal anti-discrimination statutes, for the general benefit of homeschool families nationwide. We currently have almost 100,000 families who are members of our association across the nation. These families have chosen to stand with us in this work as we seek to advocate for homeschool freedom and related Constitutional rights.

When necessary, we engage local counsel to provide legal representation for individual member families. Our associated local counsel in Pennsylvania is Mr. James N. Clymer of Lancaster.

I write to you today to express deep concern and alarm over the way that your district handles the privacy of sensitive medical records and student data for home education students. HSLDA was recently contacted by an HSLDA member family in your district. Our member family reported to us that their 18 year old student had recently graduated from the family’s home education program. Your district provided our member family with their graduated student’s cumulative file. In that file was sensitive medical information related to another minor child in the same family, as well as three pages of sensitive medical information from another graduated home education student in the district. This sensitive medical information included the other graduated home education student’s “Immunization Administration Record,” including the



full vaccine history for this student, this student's date of birth, home address, phone number, medical provider's name, and vaccine lot number records from birth – 2011 for this student. To protect the privacy of the families and students impacted by this privacy breach, HSLDA is not including any names of the students or families.

Our HSLDA member family subsequently took every precaution to protect the privacy of all involved, including keeping the file under lock and key. Our HSLDA member family swiftly contacted your district, and has returned all documents relating to the other graduated home education student.

We are deeply concerned about this privacy breach. We understand that a FERPA complaint has been filed with the U.S. Department of Education, and a HIPAA complaint has been filed with the Office for Civil Rights at the U.S. Department of Health & Human Services. We are also copying the Pennsylvania Departments of Education and Health on this letter, as well as the Pennsylvania Attorney General's Office, as we are concerned that laws of the Commonwealth of Pennsylvania, including 24 P.S. § 14-1409, may have been violated.

We also believe this privacy breach is directly related to the fact that the Pennsylvania Departments of Education and Health are – we believe incorrectly – demanding that school districts act as the immunization and medical police for home education families.

Instead, 24 P.S. 13-1327.1 requires that homeschooling families need only file a notarized affidavit or unsworn declaration,¹ as well as their educational objectives, to begin a home education program.² Where the affidavit or unsworn declaration includes a declaration or attestation that a child either has been immunized or has a religious exemption, and has received the required health and medical services or has a religious exemption, the “evidence” requirement in the statute has been met, and families *do not* need to additionally provide any sensitive health records, such as immunization or medical information, to a local school district.³

Additionally, as this privacy breach demonstrated, home education families have legitimate concerns about providing actual immunization and other sensitive medical records to

¹ The Uniform Unsworn Declarations Act, codified at 42 Pa. C.S. § 6201, *et seq.*, “explicitly states that “if a law of this Commonwealth requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.” *In Re: Nomination Petition of Caroline Turner*, 291 A.3d 519, 523 (Pa. Comm. Ct. 2023), *quoting* 42 Pa. C.S. § 6204(a).

² We note that the home education supervisor is also required to submit to the local superintendent a qualified evaluator's certification that the student is receiving an appropriate education by June 30 of every year. 24 P.S. § 13-1327.1(h.1).

³ *See e.g., Com. ex rel. Hendrickson v. Myers*, 393 Pa. 224, 228 (Pa. 1958), *quoting* BLACK'S LAW DICTIONARY, 4th Ed. (defining “evidence” as “**Any species of proof, or probative matter, legally presented at the trial of an issue**, by the act of the parties and through the medium of witnesses, records, documents, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury as to their contention”) (emphasis in original). It is well-settled that notarized affidavits and other sworn statements given under penalty of perjury constitute “evidence” in a variety of legal contexts, ranging from the recording of deeds to election law, the incorporation and dissolution of businesses, applications for licenses, the protection of digital assets under the Uniform Fiduciary Access to Digital Assets Act, and even the Pennsylvania Rules of Evidence.

public school officials. The ramifications of a privacy breach – such as the one that occurred here – are staggering.

In conclusion, we call upon your school district, and the Pennsylvania Departments of Education and Health to cease their demands that home education families provide sensitive health and medical information, including immunization records, to the local school district. School districts are busy with the education of public school students enrolled in their district – they have no business serving as the health and immunization police.

We appreciate your prompt attention to this matter. I look forward to hearing from you about the steps that your district is taking to protect the privacy of home education students in your district.

Should you have any questions or require any additional information, please do not hesitate to contact me. I can be reached via email at will.estrada@hsllda.org, and via phone at (540) 338-5600.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'W. Estrada', with a stylized flourish at the end.

William A. Estrada
Senior Counsel

cc: James N. Clymer, Esq., HSLDA Associated Local Counsel for Pennsylvania
Christian Homeschool Association of Pennsylvania (CHAP)
The Honorable Debra Bogen, Secretary of Health
The Honorable Khalid Mumin, Secretary of Education
The Honorable Michelle Henry, Attorney General